IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

O.P.No.31186 of 2000(K)

PETITIONER:-

M/S.ABOVE EXPORTS,
P.B.NO.894, KOCHUPALLY ROAD,
THOPPUMPADY,
COCHIN - 682 005,
REPRESENTED BY ITS PROPRIETOR
SHRI.K.A.RAJESH.

BY ADV. SRI.REJI PAUL

RESPONDENTS:-

1. STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
SECRETARIAT,
THIRUVANANTHAPURAM.

2. REGIONAL EXECUTIVE,
KERALA FISHERMEN'S WELFARE FUND BOARD,
REGIONAL OFFICE,
ERNAKULAM.

3. DEPUTY TAHASILDAR (RR),
TALUK OFFICE,
KOCHI.

R1 & R3 BY SPECIAL GOVERNMENT PLEADER SRI.C.T.RAVIKUMAR.
R3 BY STANDING COUNSEL SRI.ZAKKIRHUSSAIN
ADV.SRI.P.SANTHALINGAM
ADV.SRI.A.D.SHAJAN.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 05/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

O.P.NO.31186 OF 2000-K

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 - TRUE COPY OF THE ASSESSMENT ORDER DATED 7.4.2000 ISSUED BY THE 2ND RESPONDENT.

EXT.P2 - TRUE COPY OF REVENUE RECOVERY NOTICE ISSUED BY THE BY THE 3RD RESPONDENT DATED 23.10.2000.

RESPONDENT'S EXHIBITS:

EXT.R2(a) - TRUE COPY OF THE ORDER OF THE SUPREME COURT IN CIVIL APPEAL NO.12788/96 DATED 8-10-1996.

EXT.R2 (b) - TRUE COPY OF THE ORDER OF THE SUPREME COURT IN CIVIL APPEAL NO.12788/1996 DATED 6-11-1996.

- TRUE COPY -

H.L.Dattu,C.J. & K.T.Sankaran,J.

O.P.No.31186 of 2000-K

Dated, this the 5th day of October, 2007

JUDGMENT

K.T.Sankaran,J.

The prayer in the Original Petition is to declare that Exhibits P1 and P2 are illegal and void. Exhibit P1 is an order dated 7.4.2000 issued by the Regional Executive of the Fishermen's Welfare Fund Board and Exhibit P2 is a demand notice before attachment.

(2) The learned counsel appearing for the 2nd respondent Board submitted that in view of the decision of the Supreme Court in *Koluthara Exports Ltd.* v. *State of Kerala & others* [(2002) 2 SCC 459], Exhibits P1 and P2 would not survive.

(3) In the light of the decision of the Supreme Court, the reliefs prayed for in this Original Petition are liable to be granted. Accordingly, the Original Petition is allowed and Exhibits P1 and P2 are quashed.

C.M.P.Nos.53018 of 2000 and 55173 of 2000 are dismissed.

Ordered accordingly.

H.L.Dattu
Chief Justice

K.T.Sankaran
Judge

vku/-